

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|                               |   |                      |
|-------------------------------|---|----------------------|
| In the Matter of              | ) |                      |
|                               | ) |                      |
| Revision of the Commission's  | ) |                      |
| Rules to Ensure Compatibility | ) | CC Docket No. 94-102 |
| with Enhanced 911 Emergency   | ) |                      |
| Calling Systems               | ) |                      |
|                               | ) |                      |

**COMMENTS OF AT&T WIRELESS SERVICES, INC.**

Pursuant to the Public Notice released July 11, 2001,<sup>1/</sup> AT&T Wireless Services, Inc. ("AWS") hereby submits its comments in support of the petition for waiver of the Phase II E911 rules filed by Cingular Wireless LLC ("Cingular").<sup>2/</sup> Cingular conducted or participated in field trials of every type of location technology available for the GSM air interface.<sup>3/</sup> Despite vendors' repeated claims that their technologies satisfy the Commission's Phase II accuracy requirements,<sup>4/</sup> Cingular's real world tests confirm AWS's finding that currently there is no viable Phase II location solution that will satisfy the Commission's accuracy requirements for GSM networks. The only option for carriers like Cingular and AWS, therefore, is to deploy

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<sup>1/</sup> See Public Notice, WTB Seeks Comment on Wireless E911 Phase II Waiver Request Filed by Cingular Wireless LLC, CC Docket No. 94-102 (rel. July 11, 2001).

<sup>2/</sup> Cingular Wireless LLC Petition for Limited Waiver of Sections 20.18(e)-(h), filed July 6, 2001 ("Cingular Petition").

<sup>3/</sup> Id. at 10.

<sup>4/</sup> Id. at 12-13.

Phase II solutions that come “as close as possible, in terms of providing reasonably accurate location information as quickly as possible.”<sup>5/</sup>

## **DISCUSSION**

Generally, the Commission’s rules may be waived when there is good cause shown and when “special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.”<sup>6/</sup> In the context of the Phase II E911 rules, the Commission has recognized that there may be instances where “technology-related issues” or “exceptional circumstances” make it impossible for a wireless carrier to deploy Phase II by October 1, 2001, and individual waivers could be granted in these circumstances.<sup>7/</sup> The Commission indicated that a request for such a waiver of the Phase II implementation rules should be “specific, focused and limited in scope, and with a clear path to full compliance.”<sup>8/</sup>

Applying these standards, the Commission granted a Phase II waiver to VoiceStream Wireless. The Commission found that VoiceStream’s proposal could offer “significant public safety benefits” by immediately providing a level of accuracy and reliability greater than that provided under Phase I, while also ensuring the rapid initial deployment of ALI capability, with a relatively brief transition to even more precise levels of accuracy.<sup>9/</sup> The Commission also found that VoiceStream had satisfied the “special circumstances” requirement because the

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<sup>5/</sup> Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442 at ¶ 45 (rel. Sept. 8, 2000) (“Fourth MO&O”).

<sup>6/</sup> Id. at ¶ 43 (citing Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

<sup>7/</sup> Id. at ¶ 43.

<sup>8/</sup> Id. at ¶ 44.

<sup>9/</sup> Id. at ¶¶ 57-60.

NSS/E-OTD approach it proposed to use might be the only ALI solution available in the short term for carriers using GSM technology.<sup>10/</sup>

Cingular makes an equally compelling case for a waiver of the Phase II E911 rules to permit it to deploy E-OTD for its GSM networks. Grant of a waiver is necessary because the E-OTD technology currently does not meet the Phase II accuracy requirements and cannot be deployed prior to the Phase II implementation deadlines. Cingular's waiver request sets forth technology-related issues and special circumstances that satisfy the prerequisites for a waiver of the Commission's rules generally and the more detailed requirements for a waiver of the Phase II rules set forth in the Fourth MO&O.<sup>11/</sup> Accordingly, Cingular's petition should be granted.

Cingular's decision to deploy E-OTD for its GSM network reflects what AWS, VoiceStream and the Commission already have determined -- E-OTD is the only viable option for GSM networks.<sup>12/</sup> It is clear that handset-based GPS technologies will not be available in sufficient time to meet the Commission's Phase II requirements.<sup>13/</sup> Although certain vendors have represented that their network-overlay systems will work on the GSM air interface and satisfy the Commission's accuracy requirements, Cingular is correct that these claims are "only partially true and, at best, grossly ignore[] the practical considerations of deployment."<sup>14/</sup>

In contrast, the use of E-OTD will ensure the rapid initial deployment of ALI capability to Cingular's GSM subscribers because E-OTD requires only handset software modifications and some additional network equipment. And as Cingular also notes, E-OTD's position as the

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<sup>10/</sup> Id. at ¶ 56.

<sup>11/</sup> Id. at ¶¶ 43-44.

<sup>12/</sup> AWS Waiver at 4; Fourth MO&O at 17461-62.

<sup>13/</sup> See AWS Waiver at n.17 (citing VoiceStream Wireless February 5, 2001 Ex Parte Presentation at 2).

*de facto* location standard for GSM will ensure that the technology is incorporated into all future handsets.<sup>15/</sup> Even if there were a network-based solution for GSM networks that would satisfy the Commission's timing and accuracy requirements, using such a solution when virtually every other GSM carrier plans to deploy E-OTD would mean that location information would be unavailable for Cingular's subscribers whenever they roamed on other GSM networks.<sup>16/</sup> Although E-OTD will not meet the Commission's accuracy standards initially, Cingular's belief that E-OTD accuracy will continue to improve as the software is refined and carriers advance to wider-band third generation ("3G") technologies confirms AWS's own findings in this regard.<sup>17/</sup> Cingular also plans to use a "safety net" location technology solution similar to the NSS solution proposed by VoiceStream to locate GSM subscribers without E-OTD handsets.<sup>18/</sup>

Cingular has clearly set forth a reasonable path to compliance with the Commission's rules. Cingular intends to initiate deployment of E-OTD handsets by October 1, 2001 and reach 100 percent penetration of all handsets sold by September 30, 2002.<sup>19/</sup> For Cingular's safety net location technology solution, Cingular will commence deployment in the first quarter of 2002, and anticipates full deployment by the second quarter 2002.<sup>20/</sup> Due to the substantial customer

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<sup>14/</sup> Cingular Petition at 18.

<sup>15/</sup> Id. at 17.

<sup>16/</sup> Id. at 19.

<sup>17/</sup> Id. at 17-18.

<sup>18/</sup> Id. at 28. AWS does not have an embedded base of GSM customers and therefore no "safety net" solution is necessary to ensure that location information is available while E-OTD is deployed. AWS plans to implement E-OTD simultaneously with the market-by-market rollout of its GSM network, so that E-OTD will be available to all of its GSM subscribers from day one. See Partial Response of AT&T Wireless Services, Inc. to Order of the Wireless Telecommunications Bureau (filed May 30, 2001).

<sup>19/</sup> Id. at 26.

<sup>20/</sup> Id. at 28

and public safety benefits that using E-OTD in its GSM network will provide, and the lack of any other viable GSM solution, the Commission should grant Cingular's waiver request and permit it to use E-OTD for its GSM network.

### CONCLUSION

As Cingular explains, carriers currently are trapped in a "Catch-22" situation. They must deploy a Phase II solution based on vendor claims -- and risk enforcement action if that solution does not perform as required -- or file a waiver request demonstrating a path to full compliance, even though the technology to achieve full compliance simply does not exist at this time.<sup>21/</sup> Because Cingular has demonstrated exceptional circumstances that satisfy the requirements for a waiver of the Phase II E911 implementation rules, its request for waiver should be granted.

Respectfully submitted,

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<sup>21/</sup> Id. at 34.